

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

TEXTRON INNOVATIONS INC.,
Plaintiff,

v.

**SZ DJI TECHNOLOGY CO., LTD.,
DJI EUROPE B.V.,
SHENZHEN DAJIANG BAIWANG
TECHNOLOGY CO. LTD., and
IFLIGHT TECHNOLOGY COMPANY
LTD.,**

Defendants.

Civil Action No. 6:21-cv-00740-ADA

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court are the Reports and Recommendations of United States Magistrate Judge Derek T. Gilliland. ECF Nos. 264, 266. The Report at ECF No. 264 recommends that this Court:

(1) deny Defendants' Motion to Exclude Opinions and Testimony of Plaintiff's Expert Jeffrey Andrien (ECF No. 152); (2) grant Plaintiff's Motion for Leave to Serve Supplemental Opening Expert Reports (ECF No. 137); (3) grant-in-part and deny-in-part Defendants' Motion to Strike Plaintiff's Belated Document Production and its New Theory and Evidence in its Opposition to Defendants' Motion for Partial Summary Judgment (ECF No. 216); (4) grant-in-part and deny-in-part Defendants' Motion for Partial Summary Judgment (ECF No. 151); (5) grant Defendants' Motion for Leave to Amend their Answer to Add Defense of Unenforceability Due to Inequitable Conduct (ECF No. 110); (6) deny Plaintiff's Motion for Summary Judgment of No Inequitable Conduct (ECF No. 144); (7) deny Plaintiff's Motion to Strike Testimony and Expert Opinions of Non-Infringing Alternatives (ECF No. 148); (8) grant-in-part and deny-in-part Plaintiff's Motion to Exclude the Testimony of Mr. Todd Schoettelkotte (ECF No. 141); (9) grant-in-part and deny-in-part Plaintiff's Motion to Exclude Certain Testimony and Expert Opinions of DJI's Non-

Infringement and Invalidity Expert Dr. Illah Nourbakhsh (ECF No. 145); (10) grant Plaintiff's Motion for Summary Judgment that the Asserted Claims of the '909, '085, and '752 Patents are Patent Eligible under § 101 (ECF No. 146); (11) deny Plaintiff's Motion for Summary Judgment of IPR Estoppel (ECF No. 150). ECF No. 264.

The Report at ECF No. 266 also recommends that this Court (1) grant-in-part and deny-in-part Plaintiff's Motion for Summary Judgment of No Public Accessibility of Certain Alleged Prior Art References (ECF No. 142); and (2) grant-in-part and deny-in-part Plaintiff's Motion to Strike New Evidence Presented in Defendants' Opposition to Plaintiff's Motion for Summary Judgment of No Public Accessibility of Certain Alleged Prior Art References (ECF No. 201). ECF No. 266.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiff filed objections on April 4, 2023. ECF No. 272. Specifically, Plaintiff objects to the Magistrate Judges recommendation to (1) deny-in-part Plaintiff's Motion to Exclude Certain Testimony and Expert Opinions of DJI's Non-Infringement and Invalidity Expert D. Illah Nourbakhsh (ECF No. 145); (2) deny-in-part Plaintiff's Motion to Exclude the Testimony of Mr. Todd Schoettelkotte (ECF No. 141); (3) grant-in-part Defendants' Motion to Strike Plaintiff's Belated Document Production and its New Theory and Evidence in its Opposition to Defendants' Motion for Partial Summary Judgment (ECF No. 216); (4) grant-in-part Defendants' Motion for Partial Summary Judgment (ECF No. 151). *Id.* Defendants filed a response to Plaintiff's objections

on April, 2023. ECF No. 283.

Defendants also filed objections on April 12, 2023. ECF No. 289. Specifically, Defendants object to the Magistrate Judge's recommendation to (1) deny Defendants' Motion to Exclude Opinions and Testimony of Plaintiff's Expert Jeffrey Andrien (ECF No. 152); (2) grant-in-part Plaintiff's Motion to Exclude the Testimony of Mr. Todd Schoettelkotte (ECF No. 141); (3) deny-in-part Defendants' Motion for Partial Summary Judgment (ECF No. 151); (4) grant Plaintiff's Motion for Summary Judgment that the Asserted Claims of the '909, '085, and '752 Patents are Patent Eligible under § 101 (ECF No. 146); grant-in-part Plaintiff's Motion to Strike New Evidence Presented in Defendants' Opposition to Plaintiff's Motion for Summary Judgment of No Public Accessibility of Certain Alleged Prior Art References (ECF No. 201); grant-in-part Plaintiff's Motion for Summary Judgment of No Public Accessibility of Certain Alleged Prior Art References (ECF No. 142). *Id.*

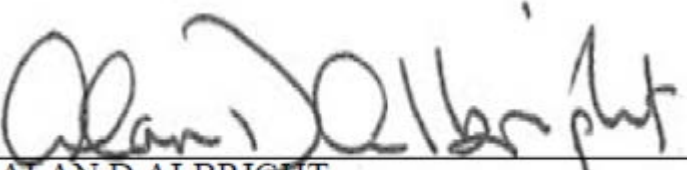
The Court has conducted a *de novo* review of the briefing, the report and recommendation, the objections to the report and recommendation, the response to the objections, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Reports and Recommendations of United States Magistrate Judge Gilliland, ECF No. 264 and ECF No. 266, are **ADOPTED** in their entirety.

IT IS FURTHER ORDERED that Defendants' and Plaintiff's objections are **OVERRULED**.

IT IS FURTHER ORDERED that the motions listed above are ruled on in accordance with the Report and Recommendation.

SIGNED this 20th day of June, 2023.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE